

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Victor Plastics, Inc.,

Bky. No. 08-40171-DDO
Chapter 7

Debtor.

Julia A. Christians, Trustee for the Bankruptcy
Estate of Victor Plastics, Inc.,

Plaintiff,

v.

Adv. Pro. No.09-_____

Schenker, Inc.,

Defendant.

COMPLAINT

Plaintiff Julia A. Christians, as Chapter 7 trustee for the Bankruptcy Estate of Victor Plastics, Inc., for her Complaint against Defendant Schenker, Inc., alleges and states as follows:

1. This adversary proceeding is commenced pursuant to Fed. R. Bankr. P. 7001 et seq. and 11 U.S.C. §§ 547(b) and 550. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 7001(1) and Local Rule 1070-1. This adversary proceeding is a core proceeding pursuant to 28 U.S.C. §157(b)(2). The petition commencing this case under Chapter 11 was filed January 15, 2008. The case was converted to Chapter 7 on July 25, 2008, and Julia A. Christians was appointed as Trustee for the Chapter 7 bankruptcy estate; this case is now pending before this Court.

2. Defendant is subject to jurisdiction in this Court, and venue is proper pursuant to

28 U.S.C. § 1409.

COUNT ONE
(Avoidance and Recovery of Preferential Transfers)

3. During the 90 days preceding the Petition Date, Defendant Schenker, Inc., received from Victor Plastics, Inc., ("Debtor") transfers of not less than \$41,874.30 (collectively, the "Transfers").

4. At the time of the Transfers, the Defendant was a creditor of the Debtor.
5. The Transfers constituted a transfer of an interest of the Debtor in property.
6. The Transfers were for or on account of antecedent debts owed by the Debtor to

Defendant at the time the Transfers were made.

7. The Transfers were made for the benefit of Defendant.
8. The Debtor was insolvent at the time of the Transfers.
9. The Transfers enabled Defendant to recover more than it would receive as a creditor if (a) the Debtor's bankruptcy case were a case under chapter 7 of Title 11 of the United States Code, (b) the Transfers had not been made and (c) the Defendant received payment of its debt to the extent provided by the provisions of Title 11 of the United States Code.

10. Pursuant to 11 U.S.C. § 547(b), the Transfers are avoidable.
11. Pursuant to 11 U.S.C. § 550(a), the Trustee may recover from Defendant the avoided Transfers or the value thereof.

12. Repayment of the Transfers was duly demanded by the Trustee by letter dated April 19, 2009.

**Count Two
(Disallowance of Claim)**

13. Plaintiff repeats and realleges the allegations of Paragraphs 1 through 12 herein.

14. Defendant Schenker, Inc., filed a proof of claim in the bankruptcy case, Claim No. 9, in the claimed amount of \$38,541.51.

15. Pursuant to 11 U.S.C. § 502(d), any claims of Defendant Schenker, Inc., against the bankruptcy estate shall be disallowed until such time as Defendant pays to the bankruptcy estate an amount equal to the aggregate amount of the Preferential Transfers.

WHEREFORE, Plaintiff prays for Judgment against Defendant Schenker, Inc., as follows:

1. For judgment avoiding the Transfers and awarding recovery of \$41,874.30, or such other amount as may be determined by the Court, together with interest thereon from April 19, 2009;
2. For recovery of Plaintiff's costs and disbursements herein;
3. Disallowing any claim of Defendant against the Debtor's bankruptcy estate pursuant to 11 U.S.C. § 502(d) until the judgment is paid in full; and

4. For such other and further relief as may be equitable and just.

July 27, 2009

KALINA, WILLS, GISVOLD & CLARK, P.L.L.P.

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